

On February 23, 1985, Judge Juanita Kidd Stout was the keynote speaker at the Black Law Students Association's Sixth Law Symposium. Excerpts from the text of her remarks were printed in the Autumn, 1985 issue of the *Bill of Particulars*. Attached is the text of the complete speech she delivered that day.

Throughout the ages, from Biblical times until today, we of the legal profession have been viewed with suspicion, distrust and scorn. "Woe unto you lawyers!" is written in Luke at Chapter 11, verse 52. Sir Thomas More excluded lawyers from his 1516 Utopia. Shakespeare gave priority to killing us. Benjamin Franklin considered us to be "officious pests," and "dirty pettifoggers." A report on the lawyer image published in the Winter 1982 issue of the American Bar Foundation Research Journal presented evidence that three distinct images of lawyers are held by both lawyers and the public. One of those images is that of a trickster. A recent Gallup Poll indicated that lawyers currently are held in such low esteem as to honesty and

ethical standards that they rate lower than funeral directors. Watergate, Abscam and Operation Greyhound have reinforced all the negative beliefs about us.

The trend toward self-help also bespeaks a lack of public confidence in lawyers. The January 24, 1985 Tulsa World reported that divorce "kits" are being sold by at least three firms in Tulsa for as low as \$12.50, and that they are used by about one-third of the divorce plaintiffs in Tulsa. Bookstores are well-stocked with manuals which instruct on everything from how to divorce yourself to how to avoid probate. Ralph Warner, publisher of Nolo Press, which specializes in self-help legal manuals, has said, "Many people

are avoiding a legal system that's too much about fear and greed and not enough about honesty and integrity."

Never before have so many charges of incompetence been

alleged, too many of which have been well-founded. Petitions alleging ineffective assistance of counsel in criminal cases are not uncommon. Malpractice suits abound and the recovery rate is high. In addition, grievances lodged with Bar Association Grievance Committees are on the increase.

Even within our own group. there are those who characterize the entire legal profession as "a flawed system." Derek C. Bok, the President of Harvard University and former Dean of Harvard Law School, argues that there are too many lawyers, and there is too much law for those who can afford it and far too little for those who cannot afford it.¹

¹"A Flawed System," Derek C. Bok, New York State Bar Journal, October 1983, pp. 8-16.

For fear this litany of negatives will dissuade you from completing your legal studies, let me hasten to add a few positive notes.

The law is a noble profession. It is the greatest single stabilizing force in our society, and the lawyer's province is to aid in the administration of justice. No pursuit of life is more honorable or useful than that of law. None requires more rigidly a stout adherence to the principles of morality. To quote again from the Bible, "The law is good, if a man use it lawfully,"² and to quote again from the American Bar Foundation Research Journal, the other two distinct images of the lawyer are of hero and helper. It is to erase the image of

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I Timothy 1:8.

trickster and to enhance the image of hero and helper that you must strive.

I do not share President Bok's view that there are too many lawyers. As you are aware, the law cuts across every aspect of life. It is growing constantly as it must deal with new social problems and advancements as well as with problems and advancements created by legislative, scientific and technological changes. Lawyers are needed to provide professional services in these ever-growing areas.

Today, knowledge is doubling every five years and the body of law is growing equally, if not more, rapidly. Wrongful life, surrogate motherhood, the right to die, and marital rape are relatively

new concepts in the law. Environmental law, health and hospital law, welfare, computer, and space law, for example, did not exist a few years ago. Even while space law, with its concerns about liability for damage to or from space objects, about space industrialization, and about proliferating satellites, is in its infancy, its sibling, astrolaw, is aborning. The astrolaw theorists view the lawyer as a valuable asset on the manned space stations which NASA expects to begin launching in 1991. One of the immediate goals of the astrolaw researchers is to develop an astrolaw code, to lay out what is and what is not acceptable behavior in space, and to make it simple enough

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to be understood by the non-lawyer spacefarer.

Regardless of one's view as to the overcrowdedness of the legal field in general, it is clear that black lawyers and women lawyers are too few. Blacks are both underrepresented in and underserved by the profession. Although black people constitute about 12%⁴ of the population, black lawyers comprise only 4.2% of the bar. Despite the fact that women now comprise more than a third of all law students, as of today only 13% of the practicing attorneys are female.

³Letter of 1/19/84 from Hamilton DeSaussure, Professor of Law, NASA/Ames University Consortium for Astrolaw Research, and "'Astrolaw': Training for Far-out Cases," Oakland Tribune, January 11, 1984, pp. A1-A2.

⁴U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings, p. 180 (1981).

With the advent of new legal delivery systems, legal services are available to many who, heretofore, could not afford the services of an attorney. Even so, the unmet legal needs of others are significant and the opportunities for legal services are abundant.

Against this backdrop of bad news and good news, let me urge each of you to plunge full steam ahead into one of the world's most exciting professions. Plunge ahead, not with despair nor with any attitude other than an expectation of success. Looking toward that success, I should like to leave with you four watchwords: "Competence and Industry; Honesty and Integrity."

Competence requires, first of all, that you bring to the

profession a body sound physically and mentally. Among other things, that means avoiding the abuse of alcohol and avoiding completely the use of drugs. It is estimated that 20% of the lawyers today are alcoholics. The number with problems of drug use is not known. The number is so great, however, that bar associations of at least twenty states have established committees to treat lawyers who have drug and alcohol problems.

Before speaking about legal competence, let me also take just a moment to speak about competence in the English language. Please be assured that my speaking on this subject to a group of law students is born of the unhappy experience

of hearing incorrect English spoken daily in the courtrooms of Philadelphia not only by witnesses but by lawyers some of whom are from the Nation's most prestigious law schools.

It is impossible for me to tell you how many times I have been "appraised" during the 25½ years I have been on the Bench. "But Your Honor," many lawyers have said, "I want to 'appraise' you" It is only after it has been suggested that my worth is not an issue in the case and that it would be better if the lawyer were to "apprise" me of the fact he is urging that the case proceeds.

Not only is speaking important but so is spelling. In Philadelphia, judges often have to appoint attorneys for indigent

defendants. One day I received a letter from someone by the name of John Francis Hogan. He said he was one of the young "attornies" in town and asked that I place him on my list for appointments.

Upon receiving the letter, I telephoned the young man and the conversation went like this:

"Good morning, Mr. Hogan, I have not had the pleasure of meeting you."

Mr. Hogan was gracious enough to say that he had not had the pleasure of meeting me either.

I inquired from whence he came. To this he replied that he was from New Jersey and New York.

"What brings you to Philadelphia?" I inquired. Mr. Hogan said he thought Philadelphia was a City of many cultural and professional advantages and that he always had wanted to live there. After telling him that I shared his view, I got down to business.

"Mr. Hogan," I said, "I received your letter asking that I place you on my list for appointments and I shall be glad to place you there, however, I have one condition." "What is that?" he asked. "On condition that you learn to spell," I replied. Mr. Hogan responded that he would even be glad to do that to which I replied, "Let us begin then by learning how to spell the word 'attorneys.'"

Mr. Hogan promptly spelled the word just as he had written

it - which had prompted my call in the first place. "A-T-T-O-R-N-E-S." To that my reply was, "Mr. Hogan, it is tragic that you have finished grade school, high school, college and professional school and do not know how to pluralize that which you are. When you learn, let me know."

It took Mr. Hogan two weeks to write a letter to thank me for teaching him how to spell the word "attorneys."

Lest I bore you with my "war stories," let me tell you just one more. About six months ago I received a letter from an attorney who wrote these exact words: "I hope you will think kindly of me and will appoint me either to 'homocide' cases or to 'non-homocide' cases." My response was: "I shall not think kindly of you - but unkindly -

until you learn how to spell 'homicide.'" The young man telephoned most apologetically and said, "Oh Judge, I am so embarrassed. I wrote all of the judges a letter and misspelled homicide in every one of them."

It is absolutely essential that members of the legal profession read, write, speak and spell the English language correctly. As Justice Rossman, formerly of the Supreme Court of Oregon wrote: ". . . the lawyer has only words as the medium by which he can make known what is in his mind. To the extent that he masters the English language he serves better his client and the cause of justice." Advocacy and the King's English, Ed. by George Rossman, viii.

Moreover, you will not only write letters to clients, colleagues,
and judges you know but to many people you do not^{know}. Your competence
will be judged, therefore, solely on the basis of a letter.

For years, Chief Justice Burger has been insisting on greater
competence of lawyers.

The first rule of the New ABA Model Rules of Professional
Conduct, adopted August 1983, defines competent representation as
requiring the legal knowledge, skill, thoroughness and preparation
reasonably necessary for representation.

The Comment to that Rule gives guidance on several of those
components of competence.

As to skill, the Comment instructs, among other things, that;

"Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through intensive study. . . . A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation."

Intensive study and reasonable preparation may be accomplished only through industry. Industry means just plain hard work. It is the type of work which is not completed until the most minute fact concerning the case has been unearthed and the latest statutory and judicial authority which is relevant has been found. It is the type of work you would want your attorney to invest in your case if you were the client.

In addition to being willing to work, the competent lawyer must be willing to invest in the tools with which to work. Books, professional magazines, business machines, and adequate supplies are essential to the practice of law; luxury cars are not. It is amazing

how many young lawyers have what I call the "Cadillac syndrome." Too many young Philadelphia lawyers buy a luxury car before they buy a set of the Pennsylvania Reporter. Invest first in the tools of your profession.

There is another little hint I should like to drop. When you begin to practice, do not be afraid to ask questions. You will be surprised to find how much knowledge of procedure is stored in the heads of courthouse clerks across this Nation, some of whom have been doing the same job for a quarter of a century. They know more about the particular procedure with which they are concerned than does the Chief Justice of the jurisdiction. When you have a problem with

which a clerk may be helpful, please discard any feeling of superiority you may have acquired on your journey through law school and courteously ask for help. It will be given galdly and you will have saved hours of research time.

One must not only be competent and industrious in the practice of law but that competence and industriousness must be communicated to the client.

Malpractice cases against lawyers are proliferating. Some of them are well-founded but many, if not most of them, are not well-founded. Many could be prevented by the simple expedient of communicating with the client at every stage of the proceeding.

Last year I attended the Mid-winter meeting of the ABA in Las Vegas. There I saw a video-tape presentation which emphasized the necessity and prudence of communicating with the client at every stage of the proceeding. The lecturer suggested that an excellent technique is to send the client a file folder at the same time you open the office file, and, thereafter to send him a copy of every piece of correspondence or document which you receive or prepare which pertains to the case. This keeps the client informed, keeps him aware of the developments in his case as they occur, makes the client feel important, lets him know that you care about his case and are giving it the appropriate and timely attention it deserves.

It also is flattering to a client and reinforcing of your competence and industry if you send him copies of any new decisions or regulations which apply to his case.

In addition to the watchwords of competence and industry, the other two watchwords I should like to emphasize are honesty and integrity - honesty and integrity with the court, honesty and integrity with other lawyers, with your clients, with the government, with everyone with whom you come in contact.

One of the most valuable experiences of my life was my work as a secretary for the late Charles H. Houston, the black legal giant of Washington, D. C. who laid the groundwork of civil rights cases

in America, and who was the epitome of the lawyer as hero and helper. The very first thing he did the very first morning I arrived at work was to take me to the bank where he made deposits in several escrow accounts. All the way to and from the bank, he lectured me on only one subject - the evil of comingling funds. I can hear him now saying, "Stout, I'll teach you all I can but, if you forget everything else I say, never, never, never forget - do not mix mine with thine." That is an imperative which I heartily recommend to you.

Honesty dictates good fiscal management of your law office and a prompt and accurate accounting of funds due your clients and those due all government agencies. In plain words - pay Uncle Sam

- and all other agencies of government to which you are obligated. Lawyers are being convicted of income tax evasion more than of any other crime. Income tax evasion has ruined many brilliant legal careers, has broken many spirits, and, indirectly, has taken some lives. Don't let that happen to you.

Finally, to be successful, one must possess more than honesty. One must possess integrity, a characteristic of which firmness and virtue are essential ingredients. As Whitney North Seymour, Jr. wrote in Why Justice Fails:

"Integrity means honor, forthrightness and
incorruptibility as a matter of personal

habit and conviction.

"It does not mean simply not violating the law.

"It does not mean simply not accepting bribes.

"It does not mean simply not telling lies.

"It means, rather, something much more positive

- the moral strength to always do what one

knows in one's heart is the right thing to do;

the moral strength to act promptly and forcefully

to prevent others from doing what one knows is wrong;

the moral strength to make impartial judgments

without fear or favor."

Some who have gone before you have left a tarnished image to the profession. You must not contribute to that tarnished image but must help to reestablish the shining nobility of the legal profession; to reestablish the image of the lawyer as a hero and helper. With the training you are acquiring, and with the competence, industry, honesty and integrity that only you can provide, the task before you, though herculean, is not impossible.

Good luck, Godspeed, and don't have any doubts!!!

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February 23, 1985